

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

Exemption No. 5620

In the matter of the petition of

USAir

Regulatory Docket No. 27119

for an exemption from § 121.314
of the Federal Aviation Regulations

PARTIAL GRANT OF EXEMPTION

By letter dated January 5, 1993, Mr. Mark J. Moran, Director of Airframe Engineering, USAir, Greater Pittsburgh International Airport, Pittsburgh, Pennsylvania 15231, petitioned for exemption from § 121.314 of the Federal Aviation Regulations (FAR), to permit a 90-day extension of the compliance time for the accomplishment of certain mandated cargo compartment modifications on USAir's fleet of ten Boeing Model 757 airplanes. This 90-day extension would be in addition to the 24-month extension to the March 20, 1991, compliance date granted to ATA by Exemption No. 5288 in order to accommodate the development of detail design modifications for Boeing Model 757 airplanes. By letters dated February 10, 1993, and February 17, 1993, Mr. Moran advised of certain difficulties encountered in implementing the required modifications, and defined a revised schedule for fleet accomplishment.

Section of the FAR affected:

Section 121.314, as amended by Amendment 121-202, requires, in part, that after March 20, 1991, all Class C and D cargo compartments greater than 200 cubic feet in volume, used on airplanes in air carrier, air taxi, and commercial service, have liners constructed of fiberglass or material satisfying the test requirements of § 25.855, as amended by Amendment 25-60, or, in the case of liners approved prior to March 20, 1989, aluminum.

Related Section of the FAR:

Section 25.855(a-1)(1), as amended by Amendment 25-60, incorporates a new flame penetration test using an oil burner. This test is required

ANM-93-018-E

of liner materials in Class C and D cargo compartments on affected airplanes, regardless of whether or not the material is fiberglass. These test standards are contained in Appendix F, Part III, of Part 25.

The petitioner's supportive information is as follows:

USAir's fleet of ten Boeing Model 757's are former Eastern Airlines airplanes, and entered into USAir Part 121 service in January of 1992. Compliance with § 121.314 detail part requirements for these airplanes includes the accomplishment of Boeing Service Bulletins 757-21-0023, Revision 1, and 757-21-0054, Revision 1, which provide for replacing certain ducting and nozzles. The modification kits associated with these bulletins were not available until mid-1992, after the airplanes entered service, and the first subsequent regularly scheduled maintenance period of sufficient duration to accommodate implementation of the service bulletins was set for February 1, 1993, through mid-April 1993. USAir initially estimated that six of their ten airplanes could be completed by March 20, 1993, which is the pertinent deadline permitted by Exemption No. 5288 and granted to ATA for compliance with § 121.314 detail requirements. The remaining four airplanes were estimated to be completed by the conclusion of this maintenance activity in mid-April 1993, which is approximately 26 days beyond the compliance deadline. Nevertheless, USAir petitioned for a 90-day extension for the entire fleet, to allow for slippage in their maintenance scheduling.

USAir's first follow-up letter of February 10, 1993, described certain unanticipated difficulties that were encountered during implementation of the service bulletins on their first 757, which was completed in the first week of February, but USAir continued to estimate service bulletin implementation in accordance with their original schedule described above. USAir's second follow-up letter of February 17, 1993, indicated that five, rather than the originally estimated six, 757 airplanes are estimated to be completed by the March 20, 1993, deadline. This letter further estimates that their remaining five affected airplanes are scheduled for completion by April 29, 1993.

USAir requests that the publication and comment requirements of § 11.27(c), and the 120-day advance submission requirements of § 11.25(b)(1), be waived due to the urgency of their request, the short time extension requested, and the few airplanes affected.

USAir states that granting their petition would have no impact on safety due to the negligible portion of the cargo liners involved (less than one-half of one percent of the cargo liner surface area), and would be in the public interest because otherwise airplanes would be grounded, and the traveling public would be inconvenienced by the consequential disruption of scheduled airline service.

The FAA finds that the petitioner has not provided good cause to warrant waiving the requirement for submitting a petition at least 120 days prior to the proposed effective date of the exemption; no rationale was included in the petition for delaying submittal past November 20, 1992, which would have been approximately 120 days prior to March 20, 1993. In fact, it appears that the petitioner should have known that an exemption would be required when the airplanes entered service, and could have petitioned at that time. Further, the FAA finds that action on this petition would not be unduly delayed by publication of a summary of the petition. Accordingly, a summary of the petitioner's January 3, 1993, request was published in the Federal Register on January 28, 1993 (58 FR 6429). No comments were received.

The Federal Aviation Administration's analysis/summary is as follows:

The FAA has carefully considered the information provided by the petitioner, and has determined that there is sufficient merit to warrant a partial grant of exemption.

The petitioner's request is limited to an extension of the compliance time, as opposed to permanent relief from any modifications required, and is prompted by special circumstances of timing at USAir in which completion of the first regularly scheduled maintenance activity appropriate for these modifications, on airplanes recently entered into service, fell beyond the compliance date by a relatively small margin. Although the FAA agrees, in principal, that an extension is warranted, it does not consider the requested 90-day extension to be appropriate. The petitioner has indicated that five of the ten affected airplanes are expected to be fully modified prior to the March 20, 1993, compliance date, leaving only five airplanes, not the entire fleet, subject to the extension. In addition, the petitioner expects that modification of these five remaining airplanes will be completed forty days after the compliance date, notwithstanding difficulties. Even though the petitioner's supporting information does not justify an extension beyond the end of April, the FAA has become aware through other sources that some slippage in the schedule has occurred, due to longer than anticipated modification time. The FAA therefore considers an extension of the compliance time for six airplanes from March 20, 1993, to May 15, 1993, to be appropriate.

In consideration of the foregoing, I find that a partial grant of exemption is in the public interest, and will not significantly affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), a partial grant of exemption is hereby granted to USAir to permit operation through May 15, 1993, of six Boeing Model 757 airplanes whose cargo compartments have not been modified to comply with

the detail design requirements of § 121.314, after which time these modifications must be installed in order to be eligible for continued operation under the provisions of Part 121.

Issued in Renton, Washington, on March 18, 1993.

/s/ Ronald T. Wojnar, Manager
Transport Airplane Directorate
Aircraft Certification Service, ANM-100

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